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SUBJECT: Repeating Request for Guidance: Rome Statute/Article 98
Agreement

REF: GUATEMALA 696

¶1. (U) Embassy is repeating a request for guidance (reftel) in response to a renewed request Nov. 24 from the Guatemalan MFA's Director General for Multilateral Affairs, Julio Martini, on USG reaction to the possibility of Guatemala becoming a party to the International Criminal Court in 2010.

¶2. (SBU) At the MFA's request, the Ambassador received July 17 Vice Foreign Minister Lars Pira, Director General for Multilateral Affairs Julio Martini, and MFA Legal Advisor Rodrigo Montufar. The MFA visitors said that the GOG is seriously considering renewing an unsuccessful 2005 effort to secure Guatemalan congressional approval for becoming a party to the International Criminal Court. In 2005, a congressional committee approved accession to the Rome Statute, but it was never approved in plenary due to some congress members' concerns that accession could lay the groundwork for the extradition on war crimes charges of former de facto President Rios Montt and other high-profile persons who played controversial roles in Guatemala's civil conflict.

¶3. (SBU) The MFA representatives said GOG accession to the Rome Statute would be in line with Guatemala's commitment to international human rights norms, and would facilitate GOG cooperation with the UN-led International Commission Against Impunity in Guatemala (CICIG). They highlighted that Guatemala has no intention of extraditing any American or other third country national to the ICC. They recalled that in 2005 the Embassy, anticipating possible Guatemalan congressional approval of accession, had approached the MFA about signing an Article 98 agreement. However, those negotiations were never completed because Guatemala did not become a party to the ICC. VFM Pira asked the Ambassador whether the new U.S. administration would again seek an Article 98 agreement were Guatemala to become a party to the ICC. Legal Advisor Montufar added that the GOG might seek congressional approval for accession some time after August of this year.

¶4. (U) The Embassy requests guidance on how to respond to the MFA's inquiry.
MCFARLAND